

HANDBOOK
— OF —
PROHIBITION LAW
FOR THE PROVINCE OF
ONTARIO

By
FRASER RANEY, M.A., LL.B.

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FOREWORD

One of the most important and efficient branches of Alliance activity is that of Law Enforcement. With the advance of our reform, there has been a growing recognition of the steadily increasing importance of this work, until last year it was decided to create a special department and engage a qualified head. The Managing Committee was fortunate in securing the services of Mr. Fraser Raney, M.A., LL.B., who is giving his whole time to this work and brings to his duties not only a well-trained legal mind, but enthusiasm and interest in the work.

This booklet is itself a practical demonstration of the wisdom made in the appointment of Mr. Raney, and the information it contains will be of immeasurable value to all who seek to make prohibition effective and permanent, both in our province and Dominion.

The Superintendent of the Law Enforcement Department is in constant touch with the Provincial Board of License Commissioners, and through this Department every local committee in Ontario is put in direct relationship with the enforcement authorities of the province. The establishing of this connecting link between those who wish the law enforced and those charged with its enforcement, will be of incalculable value in the securing of effective administration of the law.

The ideal before us is the organization in every municipality of temperance electors who want prohibition to be effective and permanent; these municipal committees linked in a county or district organization which will helpfully relate them to one another and give cohesion and intelligent direction to their activities; the county and district organizations again united in our Provincial Executive, which will co-ordinate the work throughout the province and, through the Law Enforcement and other Departments of the Alliance, enable the securing of maximum efficiency with a minimum of expense.

This Department was created, and is maintained, for the benefit of the people of Ontario. Everyone, therefore, is not only cordially invited, but has a right to make the fullest possible use of this Department, and, indeed, of the Alliance office.

BEN. H. SPENCE,

Secretary.

CHAS. E. STEELE,

President.

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PART I

THE LAW—ITS PROHIBITIONS

CHAPTER I

THE PROHIBITION LAW IN FORCE IN ONTARIO.

(1).—*The Ontario Temperance Act.*

The Ontario Temperance Act was assented to by the Lieutenant-Governor of this province, and became law on April 27th, 1916, although its main prohibition features did not come into force until September 16, 1916. Two amending Acts have since been passed—the Act of 1917 and the Act of 1918—the result of which has been to supplement the original Act in many important particulars, without, however, modifying its main clauses.

The whole of this legislation, it is expressly provided, is temporary in character. Section 147 of the Act enacts that “on the first Monday in June, 1919, there shall be submitted to the vote of the electors of the province the

“While this Act is intended to prohibit and shall prohibit transactions in liquor which take place wholly within the Province of Ontario, except under license or as otherwise specially provided by this Act, and to restrict the consumption of liquor within the limits of the prov-

* Attorney-General of Manitoba v. Manitoba License Holders' Association, 1902. A.C., at page 78.

ince of Ontario, it shall not affect, and is not intended to affect, bona fide transactions in liquor between a person in the Province of Ontario and a person in another province or in a foreign country, and the provisions of this Act shall be construed accordingly."

and, although it may and does prohibit the sale of liquor and its possession, except under certain conditions, within this province, it does not prohibit inter-provincial transactions in liquor, the importation of liquor from foreign countries, or its manufacture.

(2).—*Dominion Orders-in-Council.*

The Dominion Government has the power to deal with the liquor problem from the national standpoint—that is, for the welfare of Canada, and on December 22nd, 1917, Sir Robert Borden announced that the Government would supplement existing provincial legislation by prohibiting the manufacture, importation, and inter-provincial trade in liquor. [The Government pronouncement in this regard was stated to be part of its general "win-the-war" policy, and the recital in the Order-in-Council, which was almost immediately passed, is instructive from that point of view.]

(3).—*The Doherty Act.*

Although the Orders-in-Council just referred to are, of course, of paramount importance, the Dominion Govern-

* "And whereas the War Committee recommends for the purpose of preventing waste and for the promotion of thrift and economy, the conservation of financial resources and the increase of national efficiency, that the importation of intoxicating liquors be prohibited during the war and for one year thereafter."

ment had previously passed useful legislation in aid of provincial laws prohibiting or restricting the sale or use of intoxicating liquors. The "Doherty" Act, 1916,* prohibited any person sending or bringing liquor into any province knowing or intending that this liquor would be dealt with in violation of the law of that province. This statute also made it an offence to ship liquor into any place in which the sale of liquor for beverage purposes is prohibited, unless plainly labelled to show the contents of the package and addressed to the actual consignee. In view of the subsequent Orders-in-Council, however, this legislation loses much of its importance.†

(4).—*Summary.*

The Ontario Temperance Act, the Doherty Act, and the Regulations embodied in the Order-in-Council of March 11th, are to be regarded as one system of prohibitory laws applicable to this province. The title of the Doherty Act states that it is "An Act in aid of Provincial Legislation, etc." The Dominion Regulations expressly provide that they are to be "construed as supplementary to the prohibitory laws now in force or that may hereafter be in force in any province or territory,‡ while the Ontario Temperance Act, 1918 (section 30), provides that:

"During the time any statute of the Parliament of Canada or any Order-in-Council passed thereunder, is in force, the effect of which is to prohibit the transportation of liquor into or out of this province for any purpose, sections 43, 45, 46 and 139 (*all affecting transportation*) of the Ontario Temperance Act shall be deemed to be suspended to the extent necessary to conform to the provisions of such statute or order."

Thus the definition of intoxicating liquor laid down by the Ontario Temperance Act is adopted in substance by the Dominion Orders-in-Council; that is, "any liquor or beverage which contains more than 2½ per centum of proof spirits." So also the prohibitions enacted by the Ontario Temperance Act and the Dominion Regulations should be read together. The Ontario Temperance Act provides that no person shall have, keep or give any liquor in Ontario,

* 6-7 George V, Cap. 19, amended; 7-8 George V, Cap. 30.

† The Canada Temperance Act is in force in the Counties of Peel, Perth and Huron and the Provisional Judicial Districts of Manitoulin. In view of the marked difference between the Canada Temperance Act and the Ontario Temperance Act, and the fact that the Canada Temperance Act is in force only in a relatively small portion of the province, no attempt will be made in the following pages to explain the existing law in the counties above named.

‡ Order-in-Council of March 11th, Section 13.

except in the private dwelling house in which he resides or except as expressly permitted by this Act (41 O.T.A.),* and that no person shall sell or keep for sale any liquor in Ontario except as expressly permitted by this Act ((40 O.T.A.); while the Dominion Regulations provide that no person shall make or manufacture liquor in Ontario, or cause liquor to be so made or manufactured, except as expressly permitted by this Order (2 D.R.), and that no person shall send, take, transport into or deliver in Ontario any liquor except as expressly permitted by this order (4 D.R.).† Finally, although the Ontario Temperance Act makes more elaborate provision for administration than the other enactments, yet both the Doherty Act and the Dominion Regulations also contain useful clauses in aid of enforcement, and these must be read together.

In spite of the fact, however, that these enactments form one system of prohibitory laws, it should be remembered that the Ontario Temperance Act is the basis upon which the Dominion enactments depend for their value. Without the provincial legislation, the Dominion measures would be of little use. The importance of the Ontario law, moreover, does not entirely rest upon its fundamental prohibitions. Of almost equal importance in its successful administration are the provisions which, for lack of a better description, may be called "rounding out sections." These clauses enact special prohibitions with reference to canvassing, sale to minors, and habitual drunkards, and impose special restrictions on the sale of medicated wines, patent medicines and essences. The Ontario Temperance Act also provides elaborate machinery for enforcing its provisions and introduces radical changes in the usual rules governing evidence. On the other hand, perhaps the chief importance of the Dominion Regulations lies in the fact that they greatly simplify the enforcement of the Ontario law by cutting off the supplies of liquor for illegal sale. In fact they render possible, for the first time, the strict administration of the provincial legislation.

* Reference to the Ontario Temperance Act will hereafter be indicated by "O.T.A.," the number preceding indicating the section.

† Reference to the regulations contained in the Orders-in-Council of March 11th will be indicated by "D.R.," the number preceding being the number of the section in the regulations.

CHAPTER II

THE RIGHT TO HAVE, KEEP, AND GIVE LIQUOR IN ONTARIO

No person shall have, keep or give any liquor in Ontario except in the private dwelling house in which he resides or except as expressly permitted by this Act. (41 O.T.A.)

This clause, read together with section 88 of the Ontario Temperance Act, it has been stated by Mr. Justice Middleton, means "that possession of liquor in Ontario is *prima facie* unlawful."* Once possession is proved conviction may follow if the accused is unable to satisfy the magistrate that he was legally entitled to have or keep the liquor found in his possession. He may satisfy the magistrate by proving that he comes within one of the following exceptions:

(1).—*Possession of Liquor in a Private Dwelling House.*

It is an absolute defence to such a charge if the liquor is had or kept in the 'private dwelling house in which the accused person resides. What is meant by "private dwelling house" is consequently very important, and is elaborately defined. Generally speaking, it means "a separate dwelling with a separate door for ingress and egress, and actually and exclusively occupied and used as a private residence." (2 (i) O.T.A.)

Without restricting the generality of the above definition, a "private dwelling house" *does not mean*:

(1) Any house or building occupied or used or partially occupied or used as an office, shop, or other place of business. Provided that (a) a duly registered physician, dentist, or veterinary surgeon may have his office in his residence without affecting its character as a private dwelling house, and (b) if any office, shop, or place of business is on the ground floor of any building which, above the ground floor, is used exclusively for living apartments having no internal communication with the ground floor, and if such living apartments contain facilities for cooking and a family actually residing, cooking, sleeping and taking their meals there, these apartments shall be regarded as a private dwelling house. (2 (i) IV, O.T.A.)†

(2) Any house or building occupied or used or partially occupied or used as a club house or club room, public hall, or hall of any society or order. Thus the caretaker of a

* *Rex v. LeClair*, 12 O.W.N., 163; 39 O.L.R., 436.

† This section overrules the decision in *Rex v. Purdy*, 13 O.W.N., 205.

club house, with living apartments on the club premises, cannot keep liquor in his rooms. Obviously also it is illegal to have, keep or give liquor anywhere else on the club premises. (See also 53 O.T.A.)

(3) Any house or building occupied or used or partially occupied or used as a boarding house or lodging house where there are more than three lodgers or boarders other than the members of the family, or as a livery stable or garage, or as an inn, tavern, hotel, or other house or place of public entertainment.

(4) Any house or building, the rooms or compartments in which are leased to different persons. This must be read subject to the following provision as to "apartment blocks" in cities. It does not prohibit the keeping of liquor in what is known as a duplex house if there is no internal communication between the apartments and each has a separate door for ingress and egress.*

Where the occupant of a house lets or sublets a suite of rooms, *e.g.* what is known as "a bathroom flat," the character of the building would appear to be governed by the clause as to lodging houses, that is, if there are not more than three lodgers other than the members of the lessor's family, the building retains its character as a private dwelling house—if there are more than three such lodgers liquor may not be kept on the premises.

(5) Any house or building mentioned in section 54 of the Act, that is any house or building the occupant of which has been convicted of any offence against any of the provisions of this Act committed in or in respect of such a house. While the occupant so convicted occupies the house or any part of it, it is illegal to have or give liquor in it.

(6) Any house or building in which a person who has been served with an order of prohibition as an habitual drunkard resides during the time such order is in force. (55 (13) O.T.A.)

(7) Any house or building where for money or other valuable consideration, any goods or other chattels are kept for sale, or sold. This prohibits persons who have no regular place of business, but sell goods from their dwelling house, from keeping liquor in the house in which they live.

(8) Any house or building connected by a doorway or covered passage with a place where liquor is authorized to be sold under this Act, or with any office or place of business subject to the provisos mentioned under paragraph (1) above.

In none of the places above enumerated may liquor be had, kept or given.

* *Rex v. Carswell*, 13 O.W.N., 395.

It would appear to be illegal for a druggist to have liquor in his living apartments where there is internal communication with his store. This is also, of course, true of a licensed vendor or manufacturer of liquor whose living apartments are connected with his place of business.

As already indicated in paragraph (4) above, special provision is made as to an "apartment block" in a city. A suite of rooms in such an apartment without any communication with other rooms, with a doorway opening into a main or common hall, with facilities for cooking and a family actually residing, cooking, sleeping and taking their meals is a "private dwelling house" where liquor may be kept within the meaning of the Act. The ground floor of such a building may be used for business purposes provided there is no internal communication between the portion used for business and any other part of the building above the ground floor. (2 (i) III O.T.A.) Where the occupants of such an apartment block have separate cellar compartments liquor may be kept in such compartments.*

It is important in all doubtful cases to bear in mind the general definition of a "private dwelling house" laid down by the Act and above quoted. It must be "*actually and exclusively occupied as a private residence.*" The fact that it is also a means of transport prevents its being regarded as "exclusively" a residence. Thus a box car, where railway employees live, but which is moved from place to place, is not a "private dwelling house."† It must be private. The fact that other persons beside the occupant may have the right to eat or sleep in the house prevents its being regarded as a "private residence."‡ It must be actually occupied and used. Ownership of a house is not sufficient to establish the right to keep liquor in it. The Act (section 41) distinctly says "the private dwelling house in which one resided." Therefore, it is illegal for a person to have liquor in a "private dwelling house" in which he does not reside, but which is nevertheless occupied by someone else as a bona fide private residence.

Emphasis has been placed, in the preceding paragraphs, upon the right to *have* liquor in the private dwelling house in which one resides. Subject to the exceptions which will be discussed later, the right to *give* liquor is also confined to one's private residence. The law permits a person to consume liquor in the house in which he lives and to give it to anyone in the house either for consumption on the premises or to be taken to a place where it can be legally kept.

* Rex v. Obernesser, 12 O.W.N., 385.

† Rex v. Gulex, 12 O.W.N., 223; 390 O.L.R., 539.

‡ Rex v. Gulex.

No restriction is placed on the quantity of liquor which a person may keep in his private residence. The fact that there is in a person's residence "more liquor than is reasonably required for the persons residing therein, is *prima facie* evidence of the unlawful having and keeping of such liquor." (89 O.T.A.) As the statute does not limit any period of time within which the liquor is to be consumed, it may be difficult to determine what liquor is "reasonably required."

The occupant of any house or other place in which liquor is kept or sold illegally is personally responsible for the offence whether he is a party to it or not, but the "actual offender" and the occupant cannot both be convicted for the same offence. (84 O.T.A.)

(2).—*Possession of Liquor Under Special Circumstances.*

In addition to the right above discussed, to have, keep and give liquor in the house in which one lives, the law also permits liquor to be had, kept and given under certain special circumstances and by special persons.

Thus, any person may have or keep liquor anywhere in the province if it has been lawfully furnished to him upon the prescription of a legally qualified physician, but only in such quantities as may be so prescribed. (51 O.T.A.) Any person licensed by the Dominion Government to manufacture liquor for sacramental, industrial, artistic, mechanical, scientific or medicinal purposes, may have or keep liquor manufactured by him in any building wherein such manufacture is carried on (45 O.T.A.) There is no restriction as to the quantity which may be so kept. Any person licensed by the Ontario Board of License Commissioners to manufacture native wines may keep or have such liquor in the building wherein such manufacture is carried on. (44 O.T.A.) The right to manufacture such wine ends on December 31st, 1918, and the right to keep or have it on the premises where manufactured, will therefore end on the same date. Neither the Statute nor the Regulations of the Board restrict the quantity of liquor manufacturers of native wine may have upon their factory premises.

Any person may carry or convey liquor from a place where it may be lawfully kept and delivered in Ontario, to another place in Ontario where it may be lawfully kept, "but no person, during the time such liquor is being carried or conveyed shall open or break, or allow to be opened or broken, any package or vessel containing the same, or drink or use, or allow to be drunk or used any liquor therefrom. (43 O.T.A.) Thus a person moving his residence from one place to another may take liquor with him. (30 (a), 1918, O.T.A.) Liquor may be carried by

common carriers; that is, railway, express and steamboat companies, to manufacturers and persons licensed to sell liquor in Ontario, from persons out of Ontario who may legally ship liquor. Conversely, persons licensed to sell liquor in Ontario, and manufacturers may ship liquor to licensed vendors out of the province.

Persons licensed by the Ontario Board of License Commissioners to sell liquor for permitted purposes may have or keep any quantity of liquor required for such sale. Retail druggists may only have ten gallons of liquor at one time, exclusive of alcohol and sacramental wine. (130 (2) O.T.A.) Wholesale druggists who have filed a certificate with the Board may keep alcohol for sale to druggists. The quantity is not restricted. (134 O.T.A.) A dentist may keep in his office six ounces of liquor for medicinal use only, and a veterinary surgeon may keep one quart of liquor for use in his practice. (51 O.T.A.) A physician may have in his possession ten gallons of liquor which may be kept in his private dwelling house or in his office or dispensary, and may have one quart in his possession when visiting his patients. (51a O.T.A.) Persons engaged in mechanical business or scientific pursuits may have four gallons of alcohol at one time, in addition to alcohol used in the preservation of specimens for scientific purposes. (41 (3) O.T.A.) A university or other public institution of learning may have more than four gallons of alcohol for scientific purposes upon special permit from the Board. A minister of the gospel may have in his possession wine for sacramental purposes. An analyst may have liquor in his possession in his professional capacity. A hospital or institution for the care of old people may keep liquor to be administered to patients or inmates upon doctor's prescription. Any manufacturing or industrial establishment may keep on the premises one pint of liquor for use in case of accident, upon permit by the Board. It is illegal for an Indian to have liquor in his possession contrary to the Ontario Temperance Act.*

(3).—*Drinking Liquor.*

"Any person who drinks liquor in a place where such liquor cannot lawfully be kept shall be deemed to have liquor" contrary to the law. (41 (1) a O.T.A.) But liquor cannot lawfully be drunk in all places where it may be lawfully kept. It cannot be drunk upon the premises of a manufacturer (50 and 44 O.T.A.), or druggist (128 (5) O.T.A.), dentist (51 (2) O.T.A.), licensed vendor (50 O.T.A.), or during the time it is lawfully being carried from

* Rex v. Martin, 12 O.W.N., 396; 13 O.W.N., 187.

one place to another (43 O.T.A.) Nor can it be used for beverage purposes when supplied for use in mechanical or scientific pursuits or for medicinal or sacramental purposes. In short, the only place where liquor may lawfully be consumed for beverage purposes is in a private dwelling house, and the penalty for drinking it anywhere else is the same as for illegally having or keeping liquor.

(4).—*Penalty.*

The penalties for unlawfully having, keeping, or giving liquor are as follows:

1. For the first offence—a fine of not less than \$200 nor more than \$1,000, or in default of immediate payment, imprisonment for not less than three nor more than six months, and if the offence is committed by a licensee or by any person with his privity or consent, he may have his license forfeited.

2. For the second offence—imprisonment for not less than six nor more than twelve months without the option of a fine. If the offence is committed by a licensee or by any person with his privity or consent, his license shall be forfeited and he shall be incapable of becoming a licensee under this Act for a period of three years thereafter. (58 O.T.A.)

CHAPTER III

THE RIGHT TO SELL LIQUOR IN ONTARIO

No person shall either directly or indirectly sell or agree to sell any intoxicating liquor unless authorized by the law of Ontario to sell liquor within the province. (40 O.T.A.; 5 D.R.)

The law of Ontario permits the sale of liquor within the province for the same purposes as the Dominion Regulations permit its manufacture and importation; that is, for sacramental, industrial, artistic, mechanical, scientific and medicinal purposes. The sale of liquor for these purposes, however, is carefully restricted to certain persons and is only permitted by these persons under certain conditions. The following paragraphs give a detailed statement of these restrictions and conditions. Liquor can only be sold in Ontario by the persons enumerated under the circumstances stated and not otherwise.

I. A distiller, brewer or other person duly licensed by the Government of Canada may sell liquor to a person in another province or in a foreign country (45 O.T.A.),

but the Dominion Regulations provide that such licenses shall only be granted to manufacturers of liquor for permitted purposes, and that such liquor may only be sold or shipped to persons authorized to sell for permitted purposes, whether in this province or elsewhere.* Thus a distiller or brewer so licensed may sell liquor to a vendor licensed by the Ontario Board, to a hospital, university or other public institution of learning entitled to purchase same, or to a wholesale or retail druggist. A manufacturer of cider duly licensed by the Government of Canada, may sell cider to a manufacturer entitled to purchase alcohol or other liquor for the purpose of his business. (45 O.T.A.)

II. A manufacturer of native wine may sell such wine to any person in Ontario in quantities of not less than five gallons in each cask or vessel at any one time, and when sold in bottles, not less than one dozen bottles of at least three half-pints each at any one time. (44 O.T.A.)

III. A licensed vendor may sell alcohol and other liquor for permitted purposes to such persons as are entitled to purchase the same. He cannot, however, sell liquor in greater quantities, in any other place, to other persons, for other purposes or otherwise than as provided by the law. (34 O.T.A.) No liquor may be sold for consumption on the licensed premises nor during prohibited hours. (37 O.T.A.) An accurate record of sales must be kept, and a copy furnished to the Board half-yearly. (38 O.T.A.) A vendor may sell liquor to the following persons and for the purposes stated only:

(a) To any person engaged in mechanical business or in scientific pursuits for mechanical or scientific purposes. The applicant must furnish a detailed affidavit in statutory form. Only one sale and delivery may be made on one affidavit, and the affidavit must be retained by the vendor for inspection by any one, within one year from the date thereof. (35 O.T.A.) Not more than four gallons of liquor in addition to alcohol used in preservation of specimens for scientific purposes, may be sold at one time. (41 O.T.A.) More than this amount may be sold to a university or other public institution of learning upon special permit from the Board.

(b) To any minister of the gospel, or to a druggist for resale for sacramental purposes (sacramental wine only.).

(c) For medicinal uses as follows:

1. To wholesale druggists, alcohol (not limited as to quantity).

* There appears to be nothing to prevent the sale of liquor manufactured before April 1st, 1918, to any person in parts of Canada where the sale of liquor is not illegal, e.g., Montreal, or to persons in foreign countries.

2. To any duly registered pharmaceutical chemist, alcohol and sacramental wine (not limited as to quantity) and ten gallons of liquor at one time.

3. To any duly qualified physician, ten gallons of liquor.

4. To any duly qualified dentist, six ounces of liquor.

5. To any duly qualified veterinary surgeon, one quart of liquor.

6. To any public or private hospital, institution devoted exclusively to the care of old people, sanitarium for consumptives, or private sanitarium, liquor (not limited as to quantity).

7. To any person, upon the prescription of a duly qualified medical practitioner the following quantities of liquor:

(1) Ale, beer and porter in quantities not exceeding one dozen bottles, containing not more than three half-pints each, at one time.

(2) Wines and distilled liquor not exceeding one quart at one time.

(3) Alcohol or liquor mixed with any other drug not exceeding one pint.

IV. A duly registered pharmaceutical chemist or druggist may, upon the written or printed prescription of a physician, sell liquor for medicinal purposes, not exceeding six ounces, except in the case of alcohol for bathing or other necessary purpose, or liquor mixed with any drug, when a quantity not exceeding one pint may be sold. (128 O.T.A.)

A record must be kept of every such sale. In a township, a druggist who is also a physician may, himself, give prescriptions for liquor, and may also give such prescriptions in any village or police village where there is no legally qualified physician resident and practising therein. (128 (4) O.T.A.)

A druggist may sell to a physician or the superintendent of a hospital, upon his written order, one quart of liquor for use in the practise of his profession or in such hospital, to a duly qualified dentist, six ounces of liquor, and to a veterinary surgeon, one quart of liquor upon the written order of such dentist or veterinary surgeon. A druggist may also sell wine for sacramental purposes to a minister of the gospel upon his written request, or to an officer of the church duly authorized in writing by the minister, and may sell without prescription not more than 6 ounces of liquor when required in case of serious injury to, or fainting of, a person brought upon his premises or adjoining premises, and the same is urgently required. (130 O.T.A.)

V. A wholesale druggist, who has filed a certificate, signed by the Registrar of the College of Pharmacy that he is a wholesale druggist within the meaning of this Act,

may sell "ethylic" or absolute alcohol to a druggist for use in his business. (134 O.T.A.)

VI. While the prescription of liquor by a duly qualified physician may not, strictly speaking, be a sale of liquor, yet it may with advantage be discussed here. The restrictions upon such prescriptions may be analyzed as follows (51 O.T.A.):

Any physician may prescribe liquor who is lawfully and regularly engaged in the practise of his profession. No person who is not registered as a member of the Ontario College of Physicians and Surgeons may practise medicine for hire or gain. The register of the College is required by law to be open to inspection by any person at all times.*

Before such a physician may prescribe intoxicating liquor, however, he must deem it necessary for the health of his patient. "No such prescription shall be given except in cases of actual need, and when in the judgment of such physician the use of liquor is necessary." (51 O.T.A.) The statute does not otherwise indicate when liquor may be prescribed, so that the use or abuse of this privilege is left largely to the honor of the physician.

Prescriptions for liquor must be written or printed, according to statutory form, or in words to the like effect. Only one sale may be made upon one prescription. If addressed to a druggist, the quantity prescribed shall not exceed six ounces except in the case of alcohol for bathing a patient or other necessary purpose, or liquor mixed with any other drug when a quantity not exceeding one pint may be prescribed. If addressed to a licensed vendor, the quantity prescribed shall not exceed one dozen bottles containing not more than three half-pints each of ale, beer or porter, or one quart of wine or distilled liquor. Every prescription must contain a certificate that the quantity therein mentioned is the minimum quantity necessary for the patient for whom it is ordered. The records of sales of liquor upon prescription, whether by druggists or licensed vendors, may be inspected by the Board, or their officers, but not otherwise.

A real duty is cast upon a physician to obtain sufficient evidence to satisfy him that the patient is in need of liquor. Where a physician furnished alcohol to M., who said it was for his mother, but the physician did not investigate the case himself, and M. drank the alcohol himself, the physician was rightfully convicted for prescribing liquor in evasion of the law.†

* The Ontario Medical Act, R.S.O., Chap. 161, Secs. 19, 47. The present Registrar is Dr. H. W. Aikins, 170 University Ave., Toronto.

† Rex v. Welford, 14 O.W.N., 20.

The mere fact that a physician has given a large number of prescriptions for liquor is not sufficient evidence upon which to secure a conviction.* This fact, however, would be evidence of lack of good faith in a prosecution for prescribing liquor contrary to the law.†

In addition to the right to prescribe liquor, a physician may also administer liquor himself to his patients and for that purpose may have ten gallons of liquor in his office or dispensary and one quart of liquor in his possession when visiting his patients.

PENALTIES.

The penalties for unlawfully selling liquor are as follows:

1. A manufacturer of native wine who sells wine contrary to the law is liable, for the first offence, to a penalty of not less than \$10 and not more than \$100, and in default of immediate payment, to imprisonment for not less than ten days nor more than two months.

2. A druggist who sells liquor contrary to the Act is liable, for the first offence, to a fine of not less than \$50 and not more than \$300, and in default of immediate payment, to imprisonment for not less than two months nor more than four months, and for a second or subsequent offence, to a penalty of not less than \$100 nor more than \$500, and in default of immediate payment, to imprisonment for a term of not less than four months nor more than eight months, and his certificate as a chemist shall *ipso facto* be void for a period of two years from the date of his conviction. (132 O.T.A.)

3. Any other person, including a licensed vendor, distiller, brewer, etc., who unlawfully sells liquor is liable to the following penalties:

For the first offence—a fine of not less than \$200 nor more than \$1,000, or in default of immediate payment, imprisonment for not less than three nor more than six months, and if the offence is committed by a licensee or by any person with his privity or consent, he may have his license forfeited. For the second offence—imprisonment for not less than six nor more than twelve months without the option of a fine. If the offence is committed by a licensee or by any person with his privity or consent, his license shall be forfeited and he shall be incapable of becoming a licensee under this Act for a period of three years thereafter. (58 O.T.A.)

4. A physician who prescribes liquor in evasion or violation of the Act is liable to the same penalties as a druggist

* Rex v. McLaren, 12 O.W.N., 156; 39 O.L.R., 416.

† Rex v. Welford, 14 O.W.N., 20.

who sells liquor contrary to the law (except, of course, as to certificate). The Ontario College of Physicians has also certain disciplinary powers over physicians, which may be important. Where a duly registered medical practitioner has been guilty of an indictable offence, or of any infamous or disgraceful conduct in a professional respect, such practitioner shall be liable to have his name erased from the register of the College.* This, of course, deprives him of the right to practise medicine in the province. This power has not yet been exercised for a breach of the Ontario Temperance Act.

CHAPTER IV

THE RIGHT TO MANUFACTURE LIQUOR IN ONTARIO.

“No person shall make or manufacture intoxicating liquor or cause intoxicating liquor to be made or manufactured within the Dominion of Canada after the first day of April, 1918, except as expressly permitted.” (2 D.R.)

(1).—*Native Wine.*

It is expressly provided, however, “that, in case the sale of intoxicating liquor of any class, for beverage purposes, is permitted in any province, this regulation shall not apply to the manufacture of such intoxicating liquor in such province until the thirty-first day of December, 1918.” Since, therefore, Ontario permits the sale of native wines from grapes grown and produced in Ontario, the manufacture of such wines is still permissible under the Dominion Order-in-Council, until December 31st, 1918.

The manufacture of native wines in Ontario is “subject to any regulations or restrictions which the Board may impose.” Regulations have been passed by the Board which require that:

1. No manufacturer shall sell or offer for sale, within Ontario, any such wines until he has procured a permit from the Board authorizing him so to do. Permits are granted from year to year but may be cancelled at any time for cause. The Board may inspect the applicant's premises and may demand such information as they require to pass upon the application.

2. Every such manufacturer shall, not later than the tenth day of every month, furnish the Board a sworn statement giving particulars of grapes purchased and wines sold.

3. No such manufacturer “shall by himself, his servant

* The Ontario Medical Act, Section 31.

or agent, canvass for, or solicit, either personally or by advertisement or otherwise, orders for such wines for beverage purposes, within this province.*

(2).—*Beer and Spirits.*

Brewers and distillers may manufacture liquor in Ontario for sacramental, industrial, artistic, mechanical, scientific and medicinal purposes, in accordance with the terms of their licenses. (3 D.R.) Licenses have accordingly been issued for the current year to distillers, brewers, and bonded warehouses. The manufacture of such liquor is still under the control of the Dominion Inland Revenue Department, in so far as inspection, bonding and so forth; and the regulations of that Department are still in force.

(3).—*Penalties.*

The minimum penalty for the illegal manufacture of liquor is \$200 and the other penalties are also the same as for the illegal sale or possession of liquor.

CHAPTER V

IMPORTATION FROM FOREIGN COUNTRIES AND INTERPROVINCIAL TRAFFIC IN LIQUOR.

No person shall send, take, transport into or deliver in Ontario any liquor, or cause liquor to be sent, transported or delivered, except for permitted purposes. (4 D.R.)

(1).—*Transportation into Ontario.*

Prior to the enactment of the Order-in-Council of March 11th, the Doherty Act, 1916, prohibited the sending or bringing of liquor into any province "knowing or intending" that such liquor would be dealt with in violation of the law of that province, or the selling of liquor with the knowledge that it was to be so sent or shipped.† As the law of Ontario permitted the consumption of liquor by any person in his private dwelling house, this statute did not affect interprovincial traffic in liquor intended for this purpose, and was consequently of little value. The Order-in-Council above referred to cured this difficulty.

Except for the purposes for which liquor may be manufactured and sold in Canada (as already set out) it is unlawful to transport liquor into Ontario either from a foreign country or another province of Canada. Even for these

* Regulations of April 11th, 1918.

† 6-7 George V, Chap. 19, Sec. (1).

purposes, however, liquor may only be transported into Ontario "by means of a common carrier, by water, or by railway, and not otherwise." (8 D.R.) This confines such traffic to railway, steamboat and express companies, and obviously simplifies the work of supervision. Moreover, it is not open to everyone to cause liquor to be transported into Ontario for permitted purposes and by common carrier by water or by rail. The right to send or ship liquor from points outside this province to a person authorized to sell liquor within this province is confined to manufacturers licensed by the Minister of Inland Revenue to manufacture liquor for permitted purposes and licensed vendors in other provinces. So also the right to send or ship liquor manufactured in Ontario to persons authorized to sell liquor in other provinces is confined to manufacturers and persons authorized to sell liquor for permitted purposes in Ontario. Where liquor which was manufactured before April 1st is still in bond in Ontario, it may also be transported to any person in those parts of Canada where the sale of liquor is not prohibited, and to foreign countries.

During the time any liquor is being transported into or out of Ontario no person shall open or allow to be opened any package or vessel containing it, or drink or use or allow it to be drunk. (9 D.R.)

It is an offence to send or ship "by any public conveyance to any place in which the sale of liquor for beverage purposes is prohibited, any packages containing intoxicating liquor not plainly labelled so as to show the actual contents of such package, and the name and address of the consignor thereof," or to send such liquor to a fictitious person or addressed other than to the actual consignee. Any common carrier or servant of any common carrier who knowingly receives for conveyance or makes delivery of any such package is also guilty of an offence as well as any person who knowingly takes delivery from any common carrier of any such package.*

(2)—*Contracts with persons out of Ontario.*

Not only is it illegal to transport liquor into Ontario except as stated, but it is also illegal either directly or indirectly to sell, or contract or agree to sell, any liquor which is in or is to be delivered within Ontario (5 D.R.) This puts a stop to the practice known as "direct delivery" by which, on receipt of an order for liquor by an agent residing out of Ontario, acting for an Ontario manufacturer, such manufacturer would deliver the liquor direct to the consumer in Ontario from the brewery or distillers.

* Doherty Act, 1916, Section 3.

(3)—*Penalties.*

The minimum penalty for the illegal transportation or interprovincial traffic in liquor is \$200.00, and the other penalties are also the same as for the illegal sale or possession of liquor.

CHAPTER VI.

ROUNDING OUT SECTIONS.

The following paragraphs deal briefly with a number of very important sections of the Ontario Temperance Act, designed to strengthen the main prohibitory features of the law already dealt with, by first, preventing their evasion, and secondly meeting special difficulties not adequately covered by the general prohibitions stated.

I. TO PREVENT EVASION.

(1).—*Medicated Wines.*

One of the most common evasions of the law against the illegal sale of liquor is the sale of so-called "invalid" wines, stout, porter, and so on. The Ontario Temperance Act deals with this difficulty most effectively. All such compounds, mixtures and preparations must contain sufficient medication to prevent their use as alcoholic beverages (125 O.T.A.) This is a question of fact, to be determined by the magistrate whose decision is final in this regard.*

(2).—*Patent Medicines.*

Patent medicines are subject to the same rule as medicated wines, some of which, of course, are registered as patent medicines. The fact that a preparation is registered as a patent medicine does not authorize its sale contrary to the Ontario Temperance Act.† Penalties incurred for breach of the Patent Medicines Act are deemed to be in addition to penalties recoverable under the O.T.A.‡ The Provincial Board of Health may, on complaint, cause an analysis to be made of any such preparation, and if the medication found therein is not sufficient to prevent its use as an alcoholic beverage the Board shall certify accordingly, and this certificate is conclusive evidence of the facts stated. If the Board finds that the medication con-

* *Rex v. Warne Drug Co.*, 13 O.W.N., 97; see also *Rex v. Axler*, 13 O.W.N., 40.

† *Rex v. Warne Drug Co.*

‡ *Doherty Act*, 1917; 7-8 Geo. V, Cap. 30, Sec. 2.

tained, if taken in quantities, would be injurious to health, the sale of such patent medicine may be prohibited. (126 O.T.A. (1918)).

If a druggist proves that he purchased any such preparation in the same condition as that in which he sold it and "that he could not, with reasonable diligence, have obtained knowledge of the fact that it did not contain sufficient medication he shall not be found guilty." Mere lack of knowledge that it is not, or belief that it is properly medicated, is not sufficient without investigation.*

(3).—*Essences.*

Flavoring extracts, tinctures and essences containing more than two and one-half per centum of proof spirits may only be sold by retail in bottles containing not more than two and one-half ounces. A record of sales must be kept by the druggist, merchant, or manufacturer. No pedlar or transient trader may sell such tinctures. The sale of essence of ginger is specially restricted. It may only be sold by retail by a druggist, and then only (1) upon the order of a physician or (2) to a person having a permanent residence in the community, upon an affidavit that such essence is required for legitimate purposes and in a quantity not exceeding two ounces.

II. TO MEET SPECIAL DIFFICULTIES.

(1).—*Canvassing.*

It is unlawful for a person, whether licensee or not, or whether by himself, his servant or agent, to canvas for, or receive or solicit orders for liquor for beverage purposes in Ontario. The delivery of circulars from door to door is canvassing and soliciting. It is immaterial that orders are not received in consequence.† The real substance of the transaction will be looked to in deciding whether an offence has been committed or not. Whether the transaction is a real one or a mere sham is a question for the magistrate.‡

(2).—*Minors.*

Liquor shall not be given, sold, or otherwise supplied to any person apparently under the age of twenty-one years, except (a) by the parent or guardian of such person for medicinal purposes only, or (b) by a druggist or vendor

* Rex v. Warne Drug Co.

† Rex v. Lynch-Staunton, 13 O.W.N., 282.

‡ Rex v. Toyne, 11 O.W.N., 210; 38 O.L.R., 224; see also Rex v. McEvoy, 11 O.W.N., 188; 38 O.L.R., 202.

upon the prescription of a duly qualified medical practitioner. (52 O.T.A.) Thus, liquor may not be given to a minor, even in the private dwelling in which he resides, by any one except his parent or guardian, and then for medicinal purposes only.

(3).—*Habitual Drunkards.*

“Any person who has the habit of drinking liquor to excess may be prohibited from having liquor in his possession, except under the order of a duly qualified medical practitioner, or from purchasing or procuring, or attempting to purchase or procure liquor.” Any Justice of the Peace having jurisdiction may, upon proof either in open court or by affidavit, issue such a prohibitory order. So also the license inspector for the county may, of his own motion, or at the request of any near relative, or the employer of such person, give a similar notice to the person to be prohibited. Notice may also be given to express or railway companies not to deliver liquor to the prohibited person. Such a person is not permitted to have liquor even in his private residence while the prohibitory order is in force. Procedure is provided by the Act for the repeal of the order in proper cases. The penalty for breach of these provisions is the same as for the illegal sale of liquor. (55a O.T.A.)

(4).—*Prohibited Areas.*

In any case of emergency the Lieutenant-Governor-in-Council may issue a proclamation forbidding any person from having liquor in his possession within the area mentioned in such a proclamation except under a special permit. This proclamation may remain in force for such period as may therein be determined. (70a O.T.A.) This power is said to be for use in mining or lumber camps or under other special circumstances.

(5).—*Near Beer.*

“The keeper of a standard hotel (licensed under the Ontario Temperance Act) shall be entitled to sell non-intoxicating drinks and beverages, cigars, cigarettes and tobacco, and to conduct an ice cream or general restaurant or cafe, without further or other license.” (146 (5) O.T.A.) The keeper of any hotel, inn, or house of public entertainment not so licensed as aforesaid shall not sell or traffic in any of the articles above mentioned.

PART II.

THE LAW—ITS ADMINISTRATION

CHAPTER I.

PROSECUTIONS.

(1).—*Information and Complaint.*

Any person may lay an information or prosecute for an offence against the Ontario Temperance Act.

All information or complaints must be made in writing (but not necessarily on oath) within thirty days after the commission of the offence.

Complaint may be made before any Justice of the Peace for the County in which the offence is alleged to have been committed, but the trial, except in the case of a licensee, must take place before two Justices or a Police Magistrate. (61 O.T.A.)

The description of any offence in the words of the Act or in words of like effect is sufficient. It is not necessary to charge the defendant with having liquor at any particular instant of time or in any definite place. It is sufficient to charge that the defendant "had intoxicating liquor in a place other than the private dwelling house in which he resided between the 26th of October and the 10th of November, contrary to section 41 of the Ontario Temperance Act."* Any offence may be charged in the alternative where such alternative is referred to in the same section. (76 O.T.A.) Any time before judgment a magistrate may amend any information and substitute for the offence charged therein any other offence against the provisions of the Act, but if it appears that the defendant has been materially misled by such amendment the magistrate must adjourn the hearing unless the defendant consents to immediate trial. (78 O.T.A.)

* Rex v. Moore, 13 O.W.N., 315 ; Rex v. Martin, 12 O.W.N., 396.

(2).—*Procedure at Trial.*

Offences against the Ontario Temperance Act and also against the Dominion Regulations are dealt with by magistrates under the ordinary procedure governing the trial of criminal offences over which magistrates have summary jurisdiction. (72 O.T.A.; 11 D.R.) It is important to note, however, that where a prosecution is commenced under the Ontario Temperance Act no conviction or proceeding is held insufficient or invalid by reason of any defect in form or substance, provided it can be understood that the conviction or proceeding was made for an offence against some provision of that Act within the jurisdiction of the magistrate and provided there be evidence to prove some offence under that Act. (101 O.T.A.) Any person who is a material witness may be compelled by the magistrate to attend before him and give evidence. (79 O.T.A.)

(3).—*Evidence.*

The rules of evidence enacted by the Ontario Temperance Act are most essential to its successful enforcement. Their importance can scarcely be over-emphasized. Generally speaking the burden of proving innocence is put upon the person accused of violating the Act. Thus, as Mr. Justice Middleton says, the possession of liquor within Ontario is *prima facie* unlawful. If a person is accused of selling, giving or having liquor contrary to the law, and is shown to have had the liquor in his possession concerning which he is prosecuted, then, unless he can prove that he did not commit the offence charged he may be convicted accordingly.* But evidence that intoxicated persons were seen coming out of the premises on previous occasions is inadmissible in support of a charge for having liquor illegally on a subsequent day.† The usual rule as to credibility of evidence governs. If the magistrate does not believe the accused's explanation he may find him guilty.‡

* Rex v. Le Clair, 12 O.W.N., 163; 39 O.L.R., 436 (88 O.T.A.).

† Rex v. Melvin, 11 O.W.N., 215; 38 O.L.R., 231; quoting Channel, J., in Rex v. Fisher (1910), 1 K.B., 149, at p. 152: "The principle is that the prosecution is not allowed to prove that a prisoner has committed the offence with which he is charged by giving evidence that he is a person of bad character and one who is in the habit of committing crimes, for that is equivalent to asking the jury to say that because the prisoner has committed other offences, he must therefore be guilty of the particular offence for which he is being tried."

‡ Rex v. Le Clair.

In keeping with this general rule as to the burden of proof the occupant of any house in which it is proved there exists a beer pump or other appliance usually found in hotels may be convicted of illegally selling liquor unless he proves that the appliance in question was for legitimate purposes. (82 O.T.A.) In proving an illegal sale of liquor it is unnecessary to prove that any money actually passed, and in proving the consumption of liquor it is unnecessary to prove that liquor was actually consumed, provided in both cases the magistrate is satisfied a sale took place, or liquor was about to be consumed. (83 O.T.A.) The occupant of any house or other place in which liquor is kept or sold illegally is personally responsible for the offence, but the "actual offender" and the occupant cannot both be convicted for the same offence. (84 O.T.A.) The fact that there is on any premises not licensed under the Ontario Temperance Act "more liquor than is reasonably required for persons residing therein shall be deemed *prima facie* evidence of the unlawful sale and keeping for sale, and having and keeping of liquor by "the occupant of the premises." (89 O.T.A.) As already pointed out, this last section loses its chief virtue because it does not specify any time limit. The certificate of a government analyst as to the analysis of liquor is conclusive evidence of the facts stated in such certificate. (90 O.T.A.)

If liquor seized in transit is consigned to a person in a fictitious name or is shipped as other goods, or concealed in any way, that is *prima facie* evidence that it was intended to be sold or kept contrary to the law.*

(4).—*Penalties and Disposition of Penalties.*

The penalties applicable to the various offences have been stated in the chapters dealing with such offences. It may be pointed out, however, that the discretion of a magistrate as to the proper penalty to be imposed within the limit of the minimum and maximum penalties laid down, is final, except where an appeal is allowed to the County Judge.†

"No magistrate, justice of the peace or municipal council shall have any power or authority to remit, suspend or compromise any penalty or punishment inflicted under this Act." (114 O.T.A.) This section apparently

* The name of a real person used for the purpose of deception is a fictitious name. *Rex v. Le Clair*, 12 O.W.N., 163; 39 O.L.R., 436.

† There does not appear to be any right to alter the penalty imposed upon a motion to quash the conviction.

overrides the usual procedure in cases where summary conviction may be made, by which time for payment may be given. A fine or penalty may be remitted, however, upon an application to the Attorney General of Ontario under "The Fines and Forfeitures Act," in cases of hardship as for example, where there has been a technical breach of the law with no intent to commit an unlawful act.

Where a fine is imposed, the magistrate may, in his discretion, order that in default of immediate payment distress shall issue for its recovery, or he may, if he sees fit, commit the accused to jail.* (109 O.T.A.) Where the license inspector prosecutes fines are paid over by the magistrate to him and remitted to the Board at Toronto. Where, however, a municipality has appointed an officer to enforce the Act fines are paid to the treasurer of that municipality.†

(5).—*Appeals, Applications to Quash Convictions, Etc.*

The general rule is that a decision by a magistrate under the Act is final. (92 O.T.A.) To this there are two important exceptions.

Firstly, where the person convicted is a druggist, licensed vendor, or the holder of a standard hotel license, an appeal may be taken by him to the County Judge from the magistrate's decision; also where any person accused of an offence against the Act is acquitted, and the Attorney General of Ontario so directs an appeal may be taken to the County Judge. On such appeals the County Judge may hear the entire evidence over again, may affirm or reverse the decision of the magistrate and increase or decrease the penalty. (92 O.T.A.)

Secondly, although these are the only cases in which appeals may be taken, yet the magistrate's decision may also be reviewed where the accused complains that the magistrate had no jurisdiction to try him, or that there was no evidence at all upon which a conviction could be made. Such applications are usually made by a motion to quash the conviction before a Judge of the Supreme Court of Ontario. Where the question of jurisdiction is raised, the usual objection is that the acts of the accused did not constitute an offence under the statute. All such

* Hard labor may be imposed. *Rex v. Martin*, 12 O.W.N., 396.

† The last report of the Board discloses the interesting fact that in the year ending October 31st, 1917, the municipalities of this province which had appointed such officers received in fines the total sum of \$305,466.76.

applications are required to be disposed of on their merits, and if it is apparent that the merits have been tried, and there was evidence to support the conviction it will not be interfered with.

If evidence was wrongly rejected by the magistrate the court may remit the case for rehearing but no conviction will be set aside because of the fact that evidence was either wrongly received or wrongly rejected, unless in the opinion of the judge some substantial wrong was occasioned thereby. (102 O.T.A.)

Provision is made for further appeals from the County Judge and a Supreme Court Judge on applications to quash convictions with the consent of the Attorney General of Ontario. (94 and 95 O.T.A.)

CHAPTER II

RIGHTS AND DUTIES OF THE LICENSE BOARD, INSPECTORS AND OFFICERS

(1)—*Responsibility for Enforcement.*

The Ontario Temperance Act originally provided for the appointment by the Lieutenant-Governor in Council of a Board of License Commissioners for Ontario, to be composed of five persons. At the last session of the Legislature the number of members composing the Board was reduced so that in future it shall not exceed three, and may be still further reduced if that is deemed necessary. The members of the Board hold office during pleasure. (118 O.T.A.)

The province has been divided into forty-eight license districts, each of which is under the direct supervision of a district license inspector. There are also several provincial officers, provincial inspectors, and a chief inspector. All of these officers are appointed and dismissed by the Lieutenant-Governor in Council.

The duty of seeing that the Ontario Temperance Act is enforced throughout the whole province and of prosecuting persons offending against its provisions, devolves upon the Board and the License Inspectors, and other officers appointed pursuant to the Act. (61, 63, 64, O.T.A.) Every policeman and constable, however, is deemed to be within the provisions of the Act, and it is his duty to carry out and enforce it. Where information is furnished to any inspector, policeman or constable, it is his duty to inquire into the truth of such information, and to enter complaint in his own name, without communicating the name of the

person giving him such information. Every inspector and provincial officer is, for the purpose of enforcing the Ontario Temperance Act, a constable for every county and district in Ontario, and is required to take an oath of office and to furnish security. (119 O.T.A.)

The Council of any municipality may by by-law appoint an officer whose duty it shall be to enforce the Ontario Temperance Act within the limits of that municipality. (120 O.T.A.) A good many cities and towns have taken advantage of this provision. Usually the Chief of Police or Town Constable has been appointed, and, as already stated, where such an officer is appointed, fines recovered are paid to the municipal treasurer.

"Every inspector, policeman, or constable, neglecting or refusing to carry out and enforce this Act, shall incur a penalty of \$10.00 and may be summarily dismissed from office." (64 O.T.A.) Policemen and constables are appointed by the municipal or county authorities and may be dismissed by the bodies that appoint them, or by application to the county judge under the Constables Act.*

(2)—*Duties.*

(a) *Right of Search and Seizure.*

To assist officers to enforce the law, they are given wide powers of search and seizure. Any officer may, for the purpose of preventing or detecting the contravention of the Act, at any time enter and search any place of public entertainment, shop, warehouse or other place wherein refreshments or liquors are sold or reputed to be sold or kept contrary to the Act. (66 O.T.A.) This would presumably give officers the power to enter without warrant private houses suspected of selling or keeping liquor illegally, but as they can always, in a proper case, get a warrant to enter such premises, the latter course is preferable. (67 O.T.A.) Liquor discovered may be seized, and if the occupant of the premises, or any other person, is convicted of having or selling liquor contrary to the Act, it may be forfeited to the Crown. (68 O.T.A.)

Where any officer finds liquor in course of delivery in any railway or express office, or other place, and believes that such liquor is to be sold or dealt with contrary to the law, he may seize the liquor. So, also, where any officer believes that liquor is contained in any vehicle upon a public highway or elsewhere, or is concealed upon any land, or is contained in any trunk, box, bag or other receptacle on a public highway or elsewhere, and believes that

* The Constables Act, R.S.O., Cap. 94.

such liquor is intended for sale, or to be kept for sale, or otherwise contrary to the Act, he may seize such liquor whether in the custody or under the control of any person or not. (70 (2) O.T.A.) No person but the consignee, or his duly authorized agent, can lawfully take delivery of liquor from a common carrier. (70 (10) O.T.A.) The records of railway and express companies and other common carriers must show every consignment of liquor, and these records are open to the inspection of any license inspector or provincial officer. (70a O.T.A.)

Under the Dominion Regulations, further power of search and seizure is given. If it is proved, upon oath before a magistrate, that there is reasonable cause to suspect that liquor is being transported, manufactured, or dealt with contrary to the regulations, a warrant may issue authorizing the search of any place suspected, including any Government railway, vehicle, or steamship; liquor found may be seized, and when any person is convicted of an offence with reference to the liquor, such liquor may be forfeited to the Crown. (12 D.R.)

(b) *Arrest.*

"Any intoxicated person and any person found committing the offence of selling, giving or drinking liquor upon a street, highway, or in any public place,* may be arrested without warrant." (55 (4) O.T.A.) So, also, where an officer seizes liquor on unlicensed premises and any person found therein refuses to give his name, he may arrest such person without warrant. (68 (2) O.T.A.) These are the only cases in which arrest without warrant is permitted for breach of the Ontario Temperance Act. In all other cases, where power to arrest is required, a warrant must first be obtained from a magistrate or justice. The power to issue warrants conferred upon magistrates by virtue of the Criminal Code applies to cases under the Ontario Temperance Act.† A magistrate may, also, of course, issue a summons if he sees fit. Whether a warrant or a summons is preferable is a question entirely within the magistrate's discretion.

* "A public place is a place where the public go, no matter whether they have a right to go or not." *Rex v. Leitch*, 36 O.L.R., 1; 9 O.W.N., 471.

† Sec. 72 O.T.A.; also Secs. 711 and 653 of the Criminal Code.

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PREMIERS ARE PLEASED

Provincial Laws Good, but Dominion Prohibition Will Be Better—East and West Gratified

In view of the need for Dominion-wide prohibition that has existed for some time, it has been encouraging to find that nearly all the provincial Premiers were strongly in favor of a measure that would bring this about. The opinions of some of the Premiers upon the new regulations are here given:

From Manitoba

Premier Norris (Manitoba), gave the following statement to Canadian Press, Limited: "In reference to the recent order passed by the Dominion Government concerning the control of the liquor traffic, it is regarded as very satisfactory to the Provincial Government, rendering more effective the Manitoba Temperance Act. It supplies the missing link, and will, I believe, be acceptable to the great majority of the people of the Province."

Prince Edward Island

Premier Arsenault says: "The Dominion Government's action in prohibiting the importation of liquor is a very wise and generally approved measure. It is a step in the right direction, and will be generally accepted by the people of the Province. It is a step in the right direction, and will be generally accepted by the people of the Province."

Alberta

Premier

Ontario

struggle in which we are engaged—a struggle that demands all sacrifices that may be necessary to enable the full strength of the country to be employed."

How It Affects Quebec

A despatch from Montreal says: "The liquor interests in the Province of Quebec are estimating the probable effects of the Order-in-Council passed by the Dominion Government in regard to the importation of liquor, non-manufacture and interprovincial traffic. Export opinion is that, outside of anything that the Province of Quebec may do during the present session of the Legislature, prohibition is practically being applied to this Province, and the provincial revenues will suffer by more than a million dollars per year. Not only will

FURTHER PRESS COMMENTS

Newspapers of All Classes Speak Favorably of Government's Action

The newspapers are commenting freely upon the action of the Government in regard to nation-wide prohibition. Following are some of the comments made:

Hamilton Spectator: "The very first use made by the Dominion Government of its newly augmented power is to begin the process of nation-wide prohibition. A vote the only recourse for the toper will be in the so-called temperance beer, which brewers will still be allowed to manufacture with a large alcoholic content. Tem

States by the referendum which has been provided for; so that the prospect is that in the near future we shall have a 'dry' America from Hudson's Bay to the Gulf of Mexico, and from the Atlantic to the Pacific. Premier Borden could have given the country no more acceptable Christmas message than he has done, or one more likely to secure a peaceful and contented Canada."

Much for National Life

Brantford Courier: "The Union Government has already made a move of the first importance by announcing an Order-in-Council under which Canada will have a very characteristic will become more dry. From the moment that Premier Borden gave a stroke of the pen wiped out the taint in Ontario, and other Provinces decided to follow the lead, it became inevitable that the entire abolition of the trade would surely come. It is a little doubtful that the prohibition will continue to remain in force, even when hostilities have come to an end. Sir Robert Borden and his associates have taken a drastic step, but one which will do very much for the national life and progress of the Dominion."

War Fatal to Drink

Mail and Express: "It is well known how fatal to the nation is the liquor traffic. It is a great cause of riotous living, of national waste and of social demoralization and misery in this country. The drinkers cannot be kept sober by the enforced abstinence. Kaiserism is not the only evil of which the war will bring a ridance. The need for economy of food, of labor and other national resources is bringing about such social reform merely for the conservation of war energy. Britain and the United States may suppress the liquor traffic for this same reason as Canada. This war may be fatal to the drink evil everywhere."

"Bone-Dry" Here

Woodstock Sentinel-Review: "There is indication that the wave of prohibition will sweep over the greater part of the North American Continent before it flows is checked. The Order-in-Council passed by the Canadian Government alone at a 'bone-dry' Canada."

THE BORDER TOWNS

Over Shipments Turned Back at Detroit

Searching every automobile and many of the men passengers landing from ferry-boats. Customs officers at Windsor, who pointed out that the arid spell started "on and after last Monday, citizens of border cities early in the day made trips to Detroit" to buy in stocks of "wet goods" to tide them over the holidays. They were confronted on their return by police officers, who pointed out that the arid spell started "on and after last Monday, citizens of border cities early in the day made trips to Detroit" to buy in stocks of "wet goods" to tide them over the holidays. They were confronted on their return by police officers, who pointed out that the arid spell started "on and after last Monday, citizens of border cities early in the day made trips to Detroit" to buy in stocks of "wet goods" to tide them over the holidays.

The Duty of the Hour

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people will be willing to submit to this sacrifice to win the war."

Never Return to Licensing

Brantford Express: "The present restrictions are for a stated period, but it is certain that they are for all time and that Canada will never return to the licensing system. What to true of this measure, a true of the United States, should the constitutional amendment provide for prohibition be adopted by the different

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